THE HON'BLE SRI JUSTICE
GODA RAGHURAM

W.P.No. 17832 of 2007

23-08-2007

Between:

R.V.N. Jagapathi Rao and another.

Petitioners

And

The District Collector,
East Godavari district at Kakinada and three others.

Respondents.

THE HON'BLE SRI JUSTICE
GODA RAGHURAM

W.P.No. 17832 of 2007

Oral Order:

The petitioners' lands are sought to be acquired by the issuance of a draft notification dated 17.01.2007 under Section 4 (1) of the Land Acquisition Act, 1894 (for short 'the Act'). Urgency clause was invoked under Section 17 (4) of the Act and the enquiry under Section 5-A of the Act was dispensed with mechanically and without due application of mind, is the complaint. Draft declaration under Section 6 of the Act dated 20.01.2007 has been issued and the revised/amended declaration under

Section 6 dated 01-06-2007 has also been issued.

The impugned notification states that the acquisition is for the purpose of Venkatanagaram Pumping Scheme from 2.688 Km to 6.550 Km to dig main canal under Indira Sagar (Polavaram) Project, Rajahmundry, East Godavari district. This requirement is not of such an emergent nature as would justify invocation of the urgency clause and dispensing with the enquiry under Section 5-A of the Act. The enquiry under Section 5-A of the Act is a salutary statutory provision intended for affording a reasonable opportunity to the owners of lands to object to the acquisition on any relevant grounds as they wish to submit.

In the aforesaid circumstances, the decision in the impugned notification to invoke the urgency clause and dispensing with the enquiry under Section 5-A of the Act is declared irrational and unsustainable. The respondents are directed to issue notice to the petitioners for submission of objections if any to the proposal to acquire the lands. On the petitioners' submitting their objections within the time stipulated in the notice, the same shall be considered and an appropriate decision taken duly communicating the decision to the petitioners simultaneously with the recommendations made after the enquiry under Section 5-A of the Act by the acquiring authority. The petitioners shall not be dispossessed pending communication of the decision to the petitioners

consequent on the enquiry under Section 5-A of the Act. The draft declaration and the revised/amended declarations issued under Section 6 of the Act dated 20.01.2007 and 01.06.2007 respectively are quashed.

The writ petition is disposed of as above at the stage of admission, after hearing the learned counsel for the petitioners and the learned Government Pleader for Land Acquisition. There shall however be no order as to costs.

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GODA RAGHURAM, J

Dated: 23-08-2007
pvks

Nb: Furnish c.c. in one week.
B/o pvks